

REPORT TO THE PLANNING COMMISSION



DATE: February 12, 2019

TITLE: Conditional Use Permit No. 08-18 and Mitigated Negative Declaration. A recommendation to the Planning Commission for approval of a Conditional Use Permit and Mitigated Negative Declaration to establish a cannabis cultivation facility with ancillary operations totaling 168,532 square feet of building area located on a 9.27-acre site at the northeast corner of Little Morongo Road and Hacienda Avenue in the Light Industrial (I-L) land use district.

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RECOMMENDATION

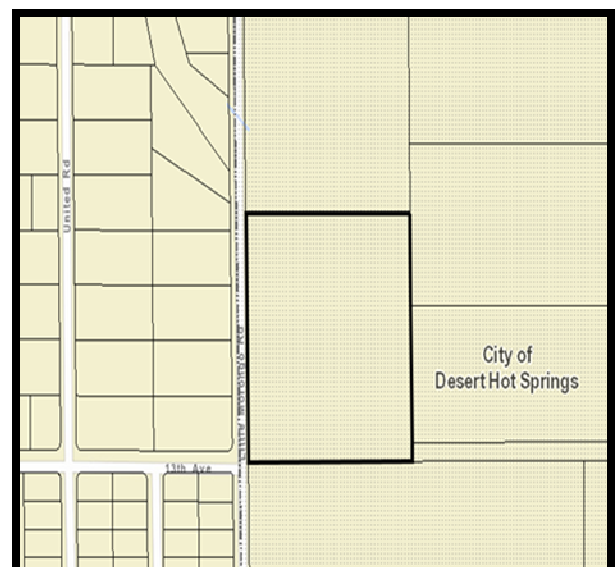
- 1) Staff Report;
- 2) Entertain Questions of Staff from Planning Commission;
- 3) Open the Public Hearing;
- 4) Take Testimony from Applicant;
- 5) Take Public Testimony;
- 6) Opportunity for Applicant Rebuttal;
- 7) Close the Public Hearing;
- 8) Planning Commission discussion and questions to Staff; and
- 9) Recommendation from staff for approval of Conditional Use Permit No. 08-18 and Mitigated Negative Declaration (including Mitigation Monitoring Program) to establish a cannabis cultivation facility with ancillary operations on a vacant 9.27-acre site located on the northeast corner of Little Morongo Road and Hacienda Avenue in the Light Industrial (I-L) land use district.

DISCUSSION

BACKGROUND

Sections 5.50 and 17.180 of the Desert Hot Springs Municipal Code (DHSMC), allows for the development and operations of cannabis cultivation facilities within industrial land use districts, subject to approval of a Conditional Use Permit (CUP) and a Regulatory Permit. The applicant, Sheldon Aberman, on behalf of CHM Desert, LLC, has filed an application to develop a cannabis cultivation facility with ancillary operations (distribution, extraction/manufacturing) on a vacant 9.27-acre property.

The project site is located at the northeast corner of Little Morongo Road and Hacienda Avenue. The project site has a total of 680 feet of frontage along Little Morongo Road and a lot depth of 630 feet. The project is being conditioned to dedicate right-of-way on both Little Morongo Road and Hacienda



Avenue and will be required to make all necessary street improvements along Little Morongo Road. The applicant/developer will be allowed to bond for improvements along Hacienda Avenue, until such time that the City requires the improvements along Hacienda Avenue.

Land Use Compatibility

The project site recently had the land use designation changed by the City Council (June 2017) from R-L (low density residential) to I-L (light industrial as part of a previous applicants request for a general plan amendment (GPA 02-16) and a zone map amendment (ZMA 02-16). Staff has outlined the surrounding lands uses and designations in the table below.

Table 1: Surrounding Land Uses

	<u>Zoning and General Plan Designations</u>	<u>Current Land Use</u>
North	I-L (Light Industrial)	Vacant Land
East	R-L (Residential Low)	Vacant Land
South	I-L (Light Industrial)	Cannabis Development
West	MDR (Medium Density Residential)	Vacant Land (Riverside County)

PROJECT DESCRIPTION

The proposed project consists of the construction of three free-standing buildings along with other site improvements (parking, landscaping, lighting, perimeter fencing, a retention basin, etc.) with a total gross floor area of 168,532 square feet.

Table 2: Use of Floor Space

<u>Building Area (Square Feet)</u>	<u>Buildings 1 thru 3</u>
Office / Administration	18,520 sq. ft.
Manufacturing / Processing	30,052 sq. ft.
Cultivation:	119,960 sq. ft.
Total Sq. Ft.	168,532 sq. ft.

The proposed project will not provide access to the general public. The site will be secured with fencing and gates and will have 24-hour security on-site. Security cameras will be monitored and supplemented with onsite security staff to be in full compliance with local ordinances. All staff will be subject to thorough background checks as per City regulations. When fully staffed, the facility could have approximately seventy-five (75) employees that would work within the City's allowed operational hours. All processing activities will take place within the interiors of the proposed building including propagation, curing, processing, potting, transplanting and shipping.

CUP ANALYSIS

General Plan and Zoning Consistency: The project proposes development of a cannabis cultivation facility with ancillary operations in accordance with Section 17.180 of the DHSMC, which allows these operations with approval of a CUP and Regulatory Permit.

Site Coverage: The project site consists of one lot having a gross area of 9.27 acres. Under the Industrial Zoning District standards, the maximum allowable coverage is 75%. The total square footage of the proposed buildings on site is 168,532 which represents a 42% building coverage on the 9.27-acre site.

Building Height: The maximum allowable height in the I-L zoning district is 2 stories and 50 feet. The highest point on the proposed buildings will be about 25 feet from adjacent grade.

Building Setbacks: The minimum setbacks in the City's Light Industrial (I-L) zone are 20 feet in front, 10 feet in the rear, and 10 feet on the side. The proposed buildings are approximately 154 feet from the front property line, 55' & 20' feet from the sides and 56 feet from the rear property line.

Circulation and Parking: Ingress and egress to the site will be provided from two driveways on the Little Morongo Road frontage and one driveway on Hacienda Ave (what the site plan refers to as 13th Ave). Access within the site is provided with drive aisle along the north, east and west sides of the property and between each of the buildings.

The project provides for 174 parking spaces (thirteen more than the code requires); six (6) of those spaces are designed for handicap access.

Based on the proposed floor plan and a parking standard of 1 space for every 2500 square feet of cultivation, 1 space for 250 feet of office and administrative uses, and 1 space for 750 for other ancillary uses (distribution, manufacturing, etc.) staff has provided the following parking calculation:

Table 3: Parking Requirements

Parking Calculation			
Proposed Uses	Zoning Requirements	Number of Spaces Required	Number of Spaces Provided
Total Administration 18,520 sf	1 space / 250 sf	74 spaces	174 spaces (including 6 for disabled access)
Total Ancillary Uses: 30,052 sf	1 space / 750 sf	40 spaces	
Total Cultivation: 119,960 sf	1 space / 2500 sf	47 spaces	
Total Required:		161 spaces	

Staff would like to note that actual uses may vary as tenants submit interior improvement plans. Since other industrial uses have higher parking demand than cultivation, staff supports the project's provision of additional parking so that future uses are not as likely to be constrained by available parking. Based on the above analysis, the project provides sufficient parking for the proposed use.

Elevations, Colors and Materials: The proposed buildings will consist of pre-engineered, steel framed, greenhouse/headhouse structures with translucent polycarbonate roof panels to allow ample light for the cultivation process. The proposed materials for the exterior include grey CMU block wall, black 100 CMU block wall, 77% clear polygal polymatte, 100% grey polygal polymatte, garden of eden (green) metal door, and bronze storefront windows. According to Section 17.40.110 (Fences, walls and hedges) of the Desert Hot Springs Municipal Code, gray precision block wall is only allowed when the material has a coated texture or professionally finished to match or complement existing structures on the lot. The applicant/developer shall utilize split face, variegated, burnished, shot blast, or other CMU wall finish or shall have the grey block professionally finished to match or complement proposed structures (added as Condition No. 2).

The current proposal also includes the use of translucent polycarbonate for the siding on the greenhouse portion of the structure. Pursuant to Section 17.180.050(B) of the Desert Hot Springs Zoning Code (DHSZC) no cannabis operations shall be visible from any public right-of-way

17.180.050 Marijuana cultivation facilities.

B. Interior Only. Marijuana cultivation shall be conducted only in the interior of fully enclosed structures, facilities, buildings, or other fully enclosed spaces consistent with the purpose and intent of this chapter. No marijuana cultivation operations, including harvesting and growing plants at any stage, shall be visible from any public right-of-way.

Therefore, staff is adding a condition (Condition No. 3) that the applicant change the materials they are using for the siding of the greenhouse buildings - to a non-translucent material.

Although the building design provides some architectural interest with the peaked roof design and use of varying colors on certain elements, staff has concerns about the proposed polycarbonate (white plastic) material they are proposing for the exterior (siding & roofing material) of the headhouse. Staff would like to see an attractive material utilized for the headhouse exterior finish, therefore staff has added a condition (Condition No. 4) that states that the applicant shall upgrade the material to a more durable, more aesthetically pleasing, and architecturally compatible material (within the zoning district and surrounding development).

Staff has advised the applicant of the added conditions and the applicant has indicated that they would like to proceed with the proposal materials as submitted. Staff's recommendation is to approve, but only with the added conditions (change in materials)

Landscaping: The landscape plan shows planted areas around the perimeter of the site, as well as along the front (west side) and sides of each building, and at the rear east corner. The plan calls for the use of drought-tolerant landscaping. The trees listed on the plan include Acacia Mulga, Palo Verde, Desert Ironwood, Texas Ebony. The shrubs listed on the plan include Barometerbush along the perimeter fencing and Grey Desert Spoon, Dwarf Weeping Bottlebrush, Emu Bush, Chihuahuan Sage, and Pinta Rita Pricklypear throughout the site.

The overall planting plan is appropriate in scale and plant selection. The balance of the project site will be landscaped with drought-tolerant ground cover plants. The landscaping has been designed to balance aesthetic, water use and security objectives. The project frontage landscaping will consist of trees, along the low-level plantings and wrought iron or tubular steel fencing to visually enhance, protect and blend the cultivation and processing campus into its surroundings while also enhancing visibility to the law enforcement vehicles from the street.

Lighting: Existing exterior lighting is provided, including a photometric study that indicates one foot-candle minimum lighting is provided throughout the vehicle circulation and parking area,

with an average two foot-candles provided at entrances and loading doors. The plan appears to meet the requirements of Section 17.16.260(e) for lighting in the industrial zone, which states:

One foot-candle evenly distributed across a parking lot is the required minimum. At entrances, loading docks and other limited areas, up to 2 foot-candles may be appropriate.

In the event that any changes to the lighting plan is proposed, a revised plan shall be submitted to the city for review of design, placement, and configuration of any changed lighting fixtures.

Phasing: The applicant proposes to construct the project in two (2) phases; however, no specific timing for each phase is proposed. Staff has included conditions to assure the construction of necessary public improvements in the appropriate phase. Otherwise, staff has no concern with the proposed phasing. As future phases come on line, any changes to the site plan, elevations or other approved plans will be reviewed by staff; substantial changes may require an amendment to this permit in accordance with the requirements of the municipal code.

Security: No specific security plan has been submitted; however, the site will be enclosed with new perimeter wrought iron or tubular steel fencing, including gated entries. Also, a more detailed, comprehensive security plan will be reviewed by the City Manager's office during the Regulatory Permit phase. This will include specific locations and areas of coverage by security cameras; location of audible interior and exterior alarms; location of exterior lighting; fencing; background checks; name and contact information of Security Company monitoring the site and any additional information required by the City.

Odor Control: No specific odor control is indicated. At such time as tenant improvements are submitted, odor control will be required, subject to review and approval by the Fire & Building Departments.

Hours of Operation: Hours will be consistent with chapter 5.50.100 of the DHSMC. Cannabis Cultivation Facilities may operate between the hours of 8:00 am and 10:00 pm up to seven days per week. This facility is developed for the cultivation of cannabis and will require staff and security services to be present on premises 24 hours per day.

ENVIRONMENTAL ANALYSIS

In accordance with the provisions of the California Environmental Quality Act ("CEQA"), an Initial Study has been prepared and which has determined that development of the proposed cannabis cultivation facility would not have a significant impact on the environment, with the implementation of mitigation measures. A draft Mitigated Negative Declaration (MND) is proposed and contains certain mitigation measures for Cultural and Biological Resources. The draft Initial Study and Mitigated Negative Declaration have been circulated for comments (comment period ended January 17, 2019). No comments were received during the comment period, and no comments have been received up to the time this report was prepared. The MND is attached for consideration by the Planning Commission, which must certify the MND prior to final action on the project.

FISCAL IMPACT

The application for project entitlements generated revenues to the City to defray the costs of processing the of the applications by City staff and the building permit submittal will generate revenues in the form of building permit fees to defray plan check and inspection costs, for each project phase. In addition, the City will receive on-going revenue from cannabis taxes once the project is completed and the business becomes operational.

CONDITIONAL USE PERMIT FINDINGS

Conditional Use Permits are regulated under Section 17.76 of the Desert Hot Springs Municipal Code and require that certain findings be made by the Planning Commission before granting a CUP request. Staff has developed recommendations for each finding, as follows:

1. *That the proposed use is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this Zoning Ordinance.*

The application is for a cannabis cultivation facility which is identified in Section 17.180.060 of the City of Desert Hot Springs Zoning Ordinance as permitted within any industrial zone which includes the I-L (Light Industrial) zone, subject to approval of a Conditional Use Permit. The project is proposed to be located within three new industrial buildings that comply with applicable provisions of the Zoning Ordinance. Conditions of approval have been prepared and are recommended to assure the proposed use will comply with applicable Zoning Ordinance provisions. Staff recommends this finding.

2. *That the proposed use would not impair the integrity and character of the land use district in which it is to be located.*

Section 17.12.010.B.2 of the Desert Hot Springs Zoning Ordinance identifies the underlying I-L (Light Industrial) zone as intended for, "...business parks and the development of any and all industrial uses operating entirely in enclosed buildings, and those requiring limited and screen able outdoor storage. Examples include clean manufacturing operations, warehousing and distribution facilities, mini-warehouse storage, and a variety of light manufacturing businesses." The proposed cannabis cultivation facility qualifies as "industrial uses operating entirely in enclosed buildings" and as "clean manufacturing operations, warehousing and distribution facilities", and will occupy 3 new industrial buildings similar to other industrial buildings in the area. The proposed use will produce goods and products in a manner similar to other industrial uses and will not introduce any activities that would impair the integrity or character of the land use district in which it is to be located. Staff recommends this finding.

3. *That the subject site is physically suitable for the type and intensity of land use being proposed.*

The site will be developed with three industrial buildings and will include parking, landscaping and other features and amenities appropriate to the development. The proposed cannabis cultivation facility is physically organized in a manner similar to other industrial establishments. The site provides sufficient parking and no expansion of the buildings is proposed. Further, the proposed site plan is similar to industrial development in the vicinity. On this basis, the site is physically suitable for the type and intensity of the proposed dispensary. Staff recommends this finding.

4. *That the proposed use is compatible with the land uses presently on the subject property.*

The site is presently vacant. The proposed cannabis cultivation facility is an industrial use and can be considered similar to other industrial establishments allowed in the I-L (Light Industrial) zone, such as plant nurseries, food products, distribution, light

manufacturing and wholesaling. The proposed industrial buildings are designed to accommodate a wide variety of industrial uses. The proposed cannabis cultivation facility does not appear to be outside the range of activities typical for an industrial building and is proposed to entirely occupy the proposed buildings. Staff recommends this finding.

5. *That the proposed use would be compatible with existing and future land uses within the general area in which the proposed use is to be located.*

The surrounding lands of the subject property are zoned for light industrial use to the north and south, and residential (to the east and to the west). The area to the west is in the County of Riverside's jurisdiction. That said, the width of Little Morongo (ultimate right-of-way) and the size of the front yard setback will help to create a buffer from the cultivation facility. Also, the low building height of 25 feet will help to reduce impacts to the undeveloped residential properties to the east and to the west.

Lands to the south are currently being developed with light industrial uses and the property to the north, although currently vacant, is zoned for light industrial activities as well. Other developed uses in the vicinity include a variety of light industrial and heavy commercial uses. The applicant proposes to entirely occupy the site, and the proposed use is not directly accessed from surrounding land uses. All activities will be contained within the proposed buildings, and the operation will appear as an industrial use consistent with the permitted uses of the I-L (Light Industrial) zone. Consequently, the proposed cannabis cultivation facility is expected to be compatible with existing and future land uses in the surrounding general area. Staff recommends this finding.

6. *That the proposed use is compatible in scale, mass, coverage, density, and intensity with all adjacent land uses.*

The proposed cannabis cultivation facility will be located within three new industrial buildings. The proposed buildings will be of pre-engineered steel framed greenhouse structures with appropriate and necessary accessory features (parking, landscaping, etc). Future industrial development is currently prohibited by the Municipal Code from exceeding 50 feet in height and 75% lot coverage. The subject 9.27 gross acre site is presently vacant but would be occupied by three buildings that do not exceed about 25 feet in height and lot coverage is approximately 42%. The scale, mass, coverage, density and intensity of the proposed use will be consistent with general industrial activities, and the site's location and development plan are compatible with adjacent industrial uses in the vicinity. Staff recommends this finding.

7. *That there are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.*

The subject site is proposed to be developed with three industrial buildings and is being conditioned to provide all necessary public services and utilities prior to occupancy. The proposed cannabis cultivation facility will not create an extraordinary demand for water, sanitation or other public utilities and services that would result in any detriment to public health and safety. Staff recommends this finding.

8. *That there will be adequate provisions for public access to serve the site.*

The subject site has sufficient on-site parking and is being conditioned to provide all necessary utilities prior to the occupancy of the building. Staff recommends this finding.

9. *That there will not be an adverse effect upon desirable neighborhood characteristics.*

Desirable neighborhood characteristics include long-range views from existing businesses of surrounding mountains. At build-out the proposed cannabis cultivation facility will fully occupy the site within buildings at approximately 25 feet in overall height. The proposal is expected to result in no adverse effect on long-range views from surrounding areas or present any other adverse effects on the neighborhood characteristics. Staff recommends this finding.

10. *That the proposed use is necessary and essential to the community.*

The proposed cannabis cultivation facility can be considered necessary and essential to the community to the extent that it is supported by customers that cause it to succeed as a local industrial business. Further, the proposed use must also operate under City regulations and conditions of approval so that only the necessary and essential elements of the business – as determined by the City – are expressed over the life of the business. Staff recommends this finding.

11. *That the proposed use is consistent with applicable goals and policies of the General Plan.*

Staff has identified the following General Plan goals and policies applicable to the application and provides responses to each.

Administration

Goal: Comprehensive and integrated administration and implementation of all elements of the Desert Hot Springs General Plan through consistent and effective policies and programs.

The City has adopted a zoning ordinance to implement the General Plan and provide for review and approval of individual development projects. The proposed cannabis cultivation facility will be subject to all requirements of this Conditional Use Permit, as prescribed by the Zoning ordinance and the adopted conditions of approval.

Policy 7: The City shall encourage in-fill development within already urbanized areas of the corporate boundaries of the City, and expansion of new development shall be logically phased and, as appropriate, guided by the development of existing and new Specific Plans.

The proposed cannabis cultivation facility will be located within industrial buildings and within the I-L (Light Industrial) zone of the City, in an area the City has designated for this type of development. This project will help to fill in development of this area and all public improvements will be completed prior to occupancy of the building. No specific plan has been adopted for the subject property.

Policy 8: City shall provide opportunities for review and comment on development proposals through public hearing notices sent to owners of property located at least within 300 feet of development proposal sites.

Prior to Planning Commission review of the project application, notice of the proposed cannabis cultivation facility conditional use permit hearing was provided to property owners within 300 feet of the proposed site. In addition, a public hearing before the Planning Commission (on February 12, 2019) will have been in fact been where persons were provided a meaningful opportunity to be heard.

Industrial Land Use

Goal: Lands that provide for the development of non-polluting, energy-related and other clean industrial development that broadens the economic and employment base of the City, and assures compatible integration with other, non-industrial land uses.

The proposed cannabis cultivation facility will be a clean industrial development and will expand the economic and employment base of the community by the products it will offer dispensaries within the State of California and the new employees that will be hired. The only non-industrial uses in the vicinity are heavy commercial businesses and limited retail. The proposed cultivation facility will operate with security and environmental measures that will assure its compatibility with all surrounding uses.

Policy 2: Industrial lands shall be located in areas that maximize all available and planned infrastructures, including but not limited to water and sewer service, electric and natural gas service, and major transportation corridors, and should minimize the impact on public health and safety.

The proposed site will be served with all necessary utilities and is located adjacent to a Major Arterial (Little Morongo Road). A review of the project indicates that no significant impact on public health and safety will occur.

Policy 4: The City of Desert Hot Springs shall seek to attract appropriate industrial users for which the area is particularly suited and encourage those industries to take advantage of the local labor force and markets with which the City has a comparative advantage.

The City has adopted policies and standards to encourage the development of a cannabis cultivation industry. The applicant has proposed a cultivation facility in conformance with these policies and standards and is expected to take advantage of the local labor force and markets.

Policy 6: The City shall require adherence to applicable development standards and guidelines to assure aesthetically acceptable industrial developments for all new industrial sites.

The project has been reviewed against applicable local development standards and guidelines. The proposal has been determined to meet these standards and guidelines or conditions have been imposed to assure that the project conforms.

Policy 9: Signs shall be limited to the minimum size, scale and number needed to provide functional identification and exposure necessary to convey messages, while minimizing impacts on traffic safety, streetscape and scenic viewsheds.

No signs are approved as part of this Conditional Use Permit. All exterior signs shall review under a separate application and be subject to approval under the Desert Hot Springs Zoning Code, including limitations on size, scale and number. The code

does not permit signs to exceed the height of existing construction which will result in no impacts on scenic viewsheds. No exposed neon shall be used for signs or window graphics.

Policy 10: Lighting shall be limited to the minimum height, number and intensity of fixtures needed to provide security and identification in residential, commercial and industrial development, taking every reasonable measure to preserve the community's night skies.

The proposed lighting plan appears to comply with the City's lighting standards for industrial development and appears designed to assure that only the minimum level of lighting necessary to provide the needed security is installed. All proposed exterior lighting shall be reviewed by staff for conformance to the applicable standards. Therefore, the proposed cannabis cultivation facility is taking reasonable steps to preserve the night skies.

Economic Development:

Goal 1: A broadly based, healthy and balanced economy that provides a full range of economic and employment opportunities.

The proposed cannabis cultivation facility will expand the type of industrial services available in the community and provide opportunities for new employment and business support services.

Goal 2: Continued growth, which assures the maintenance of a revenue base adequate to support present and future public services and facility's needs.

The establishment of a cannabis cultivation facility will provide additional revenues to the City to support present and future public needs.

Policy 11: Make every effort to expedite the processing of development proposals, which address the economic development goals of the community and take the initiative to incubate new programs and projects.

The application for a Conditional Use Permit is required by the Desert Hot Springs zoning code to assure compatibility with surrounding land uses and to develop project-specific conditions to assure successful operation in concert with the City's development goals. The application was received on October 24, 2018, deemed complete January 8, 2019 and since then the application has been processed expeditiously.

12. *That there will not be significant harmful effects upon environmental quality and natural resources.*

The proposed cannabis cultivation facility will occupy three new industrial buildings, located near established industrial areas, and operated in accordance with the City's regulations and conditions of approval. Consequently, no significant adverse or harmful effects on the environment or on any natural resources are anticipated. Staff recommends this finding.

13. *That the negative impacts of the proposed use are mitigated, and/or a mitigated negative declaration may be filed.*

The proposed cannabis cultivation facility will be operated as an industrial use within three new industrial buildings. It will be operated in accordance with all applicable regulations and conditions of approval. A review of the proposed project has identified the potential for certain environmental impacts; however, mitigation measures have been developed which will reduce all identified potential impacts to less-than-significant levels. A draft Negative Declaration with Mitigation Measures has been prepared for the project and is being presented to the Planning Commission for certification.

- 14. That the proposed location, size, design, and operating characteristics of the proposed use would not be detrimental to the public interests, health, safety, convenience, or welfare of the City.*

The proposed cannabis cultivation facility has been reviewed by City departments and other public agencies for any potential detrimental effects on public interests, health, safety, convenience or welfare of the City. Any potential concerns have been addressed by recommended conditions of approval, and only architectural concerns remain, those of which may be further conditioned by the Planning Commission at the public hearing. Staff recommends this finding.

In reviewing this application, plans, documents and other supporting information, staff has determined that the Planning Commission can make these findings.

RECOMMENDATION

Staff finds that the proposed project is substantially consistent with the General Plan and meets the development standards of the I-L (Light Industrial) zoning district. Staff recommends that the Planning Commission approve Conditional Use Permit No. 08-18 and, subject to the Conditions of Approval (Exhibit 1) and the findings contained herein.

EXHIBIT(S)

- No. 1 – Draft Conditions of Approval
- No. 2 – Site Plan
- No. 3 – Floor Plan
- No. 4 – Building Elevation
- No. 5 – Colored Elevations
- No. 6 – Landscape Plan
- No. 7 – Lighting Plan
- No. 8 – Lighting Fixture Spec Sheets
- No. 9 – Draft Mitigated Negative Declaration (including Mitigation Monitoring Program)